



DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number MARAD-2022-0057]

Every Mariner Builds a Respectful Culture (EMBARC)—Procedure and Sexual Assault and Sexual Harassment Prevention Standards

AGENCY: Maritime Administration, Department of Transportation

ACTION: Notice and request for comments.

SUMMARY: After consulting with operators of commercial vessels and other Sea Year stakeholders, on December 15, 2021, the Maritime Administration (MARAD) released on its website agency guidance entitled *Every Mariner Builds a Respectful Culture* (EMBARC). The EMBARC standards enumerate sexual assault and sexual harassment (SASH) prevention and response safety criteria for commercial vessel operators approved to carry cadets from the U.S. Merchant Marine Academy (USMMA) for training purposes. EMBARC includes compliance procedures, and sexual assault and sexual harassment (SASH) prevention and response standards that all commercial vessel operators should implement before the USMMA entrusts them with the at-sea training of midshipmen. EMBARC will help strengthen the maritime industry's efforts to prevent and respond to incidents of SASH and other forms of misconduct and help ensure a safer training environment for all cadets. By this notice, MARAD is seeking public comment on its EMBARC policy.

DATES: Comments must be received on or before *[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*. MARAD will consider comments filed after this date to the extent practicable.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2022-0057 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Search MARAD-2022-0057 and follow the instructions for submitting comments.
- *Email:* EMBARC@dot.gov. Include MARAD-2022-0057 in the subject line of the message and provide your comments in the body of the email or as an attachment.
- *Mail or Hand Delivery:* The Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD-2022-0057, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590. Due to flexible work schedules in response to Covid 19, call 202-493-0402 to determine facility hours prior to hand delivery.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, and/or a telephone number in a cover page so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Chris Wahler, Director of Maritime Labor and Training, (202) 366-5469 or via email at EMBARC@dot.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during business hours. The FIRS is available twenty-four hours a day, seven days a week, to leave a message or question. You will receive a reply during normal business hours. You may send mail to Department of Transportation, Maritime Administration, Maritime Labor and Training, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

Background

EMBARC is comprised of SASH prevention and response policies and procedures, a Self-Assessment Check List, and a Statement of Compliance. In this notice, MARAD has published the SASH policies, procedures, and standards for public review. The Self-Assessment Check List, Statement of Compliance, and Frequently Asked Questions (FAQs) are also available for review on the docket. Please feel free to provide any comments on those documents as well.

As a prerequisite to graduation from the USMMA, cadets must obtain training at sea. This training is required before a cadet may obtain a U.S. Coast Guard (USCG) license for an unlimited deck or engineering credential—also a prerequisite for graduation. The U.S. Department of Transportation (DOT) has stated that all commercial vessel operators that carry USMMA cadets should adopt and follow EMBARC—a set of standards and procedures to help prevent and respond to incidents of SASH. EMBARC is also intended to guide the provision of appropriate support to survivors of sexual assault and sexual harassment and other forms of misconduct. As a prerequisite to employing USMMA midshipmen as cadets aboard their vessels, MARAD expects commercial vessel operators to evidence implementation of EMBARC and to sign the EMBARC Statement of Compliance.

The EMBARC standards replace earlier commitments made by vessel operators to comply with Sea Year eligibility requirements previously established by MARAD's Shipboard Climate Compliance Team (SCCT). EMBARC standards apply to owners and operators of vessels subject to the International Convention for Safety of Life at Sea 1974 (SOLAS). However, MARAD seeks comments and recommendations related to applying EMBARC, or substantially similar standards to vessels not subject to the Convention. We may amend EMBARC so that it will apply to vessels not required to comply with SOLAS, or we may establish alternative criteria for such vessels to carry USMMA cadets.

DOT, MARAD, and the USMMA are committed to ongoing evaluation and improvement of EMBARC and will incorporate best and promising practices and engage with stakeholders to further strengthen MARAD's EMBARC guidance. Current EMBARC materials, including frequently asked questions (FAQs), are maintained and available to the public on MARAD's website at <https://www.maritime.dot.gov/education/sea-year-training-program-criteria/every-mariner-builds-respectful-culture-embarc>.

Discussion of Public Input Received and MARAD Actions to Date

Prior to the issuance of MARAD's EMBARC guidance on December 15, 2021, MARAD, USMMA, and DOT officials heard from stakeholders both internal and external to the U.S. Government. DOT and MARAD staff visited the USMMA to hear directly from midshipmen, staff, USMMA alumni, and community members in roundtable-format and small group meetings. MARAD, USMMA, and DOT officials also met with the U.S. Coast Guard (USCG), the U.S. Department of Education, Members and staff of the U.S. Congress, representatives from maritime labor, ship owners and operators, SMA leaders, and seafarers. Additional interested parties consulted included maritime workforce associations and non-maritime organizations with expertise in sexual assault and sexual harassment response and survivor support. MARAD also held a public workshop to hear from interested stakeholders and members of the public. This series of meetings took place from September through mid-December 2021.

At these meetings, MARAD and DOT received stakeholders' individual comments and recommendations on policies and procedures that could help strengthen safety for cadets embarked at sea—and for all mariners—by helping prevent sexual assault and sexual harassment, improve support provided to survivors, and support a culture of accountability.

Following these meetings, MARAD, USMMA, and DOT developed principles to guide the development of new criteria that would be applied to commercial vessel operators that train

USMMA cadets. These principles formed the basis for the EMBARC “Core Tenets” on which MARAD seeks comments.

1. Build and maintain a shipboard culture of inclusion and respect.
2. Establish zero tolerance policies for SASH, harassment, and hostile work environment, as well as zero tolerance for retaliation against anyone who reports assault or harassment.
3. Eliminate the barriers that survivors and bystanders face in reporting SASH incidents.
4. Support survivors and bystanders who report SASH incidents.
5. Promptly address any report of behavior that is inconsistent with EMBARC standards, using every available resource.
6. Provide for a comprehensive review of all company and vessel policies and procedures to ensure that they fully support a work environment in which assault and harassment in any form—and retaliation against those who report assault or harassment—are not tolerated.
7. Provide for the proper implementation of cadet safety standards and ensure the adoption of updates as they are promulgated by MARAD.
8. Incorporate SASH prevention, response, and reporting procedures into the Company and Vessel Safety Management Systems.

Consistent with these principles, MARAD, DOT, and the USMMA sought individual input on a draft version of the *Every Mariner Builds a Respectful Culture (EMBARC)* criteria. MARAD received input from USMMA midshipmen, vessel owners and operators, maritime labor, state maritime academies, maritime workforce leaders, staff of the U.S. Congress, USCG, the Department of Education, and a non-maritime organization with expertise in sexual assault and sexual harassment response and survivor support. Among the stakeholders’ individual recommendations, commenters suggested that the EMBARC Standards should:

- ensure that all standards that are immediately applicable to carriers are implemented before cadets are embarked;
- clarify the training requirements—including the frequency of training—for crew members and for cadets;
- not designate the Designated Person Ashore—a position identified under the SOLAS convention—as a carrier’s SASH contact for cadets;
- clarify the communications procedures between a carrier’s SASH contact and cadets;
- clarify the training requirements for carriers’ SASH contacts; and
- delay certain proposed requirements that may require vessels to be unavailable for service.

On December 15, 2021, MARAD released on its website the EMBARC Standards and Self-Assessment Check List on which comments are now sought. MARAD has continued to meet with stakeholders to clarify EMBARC requirements and receive comments. For example, MARAD and USMMA met with representatives of the SMAs, vessel owners and operators, and maritime labor on January 27, 2022, to clarify EMBARC check list items and hear stakeholders’ individual comments and concerns regarding EMBARC. MARAD also released a “Frequently Asked Questions” (FAQ) on its website on February 8, 2022.

Consistent with its commitment to continuous review and improvement of EMBARC and continuing its extensive outreach to stakeholders, MARAD believes that this notice with request for comments will further improve its EMBARC agency guidance.

Scope of Comments Requested

MARAD is interested in learning how EMBARC could be improved, while also ensuring comprehensive support and adoption by the maritime industry and other stakeholders.

Accordingly, MARAD specifically seeks comment on the following: (1) any areas of sexual assault and sexual harassment prevention and response not properly addressed or accounted for

in the EMBARC guidance; (2) any method MARAD could employ that would assist with oversight of, and compliance with, EMBARC; and, (3) other policies, procedures, or programs MARAD should consider to help ensure the safety and security of mariner cadets.

MARAD also seeks comment on the application of EMBARC, or standards similar to EMBARC, to owners or operators of vessels other than commercial carriers that must comply with SOLAS. Such other owners or operators include state and local governments, state maritime academies (SMA), and Great Lakes commercial vessel operators. Application to the SMAs would include the SMAs as operators of vessels upon which USMMA cadets receive training, and the SMAs as institutions of higher education that place their cadets on commercial vessels would be required to meet Coast Guard licensing requirements.

Content of Comments Requested

In making your comments, direct experience and quantifiable data are more useful than anecdotal descriptions. Likewise, if a commenter believes that there is a more effective alternative, the commenter should describe that alternative in verifiable detail.

Public Participation Instructions

How long do I have to submit comments?

We are providing a 60-day comment period.

How do I prepare and submit comments?

Your comments must be written in English.

To ensure that your comments are correctly filed in the Docket, please include the docket number shown at the beginning of this document in your comments.

If you are submitting comments electronically as a PDF (Adobe) File, MARAD asks that the documents be submitted using the Optical Character Recognition (OCR) process, thus allowing MARAD to search and copy certain portions of your submissions. Comments may be submitted to the docket electronically at <http://www.regulations.gov>. Search using the MARAD docket number in this notice and follow the online instructions for submitting comments.

You may also submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

Please note that pursuant to the Data Quality Act, for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at <http://www.whitehouse.gov/omb/fedreg/reproducible.html>. DOT's guidelines may be accessed at http://www.bts.gov/programs/statistical_policy_and_research/data_quality_guidelines.

I provided MARAD comments on EMBARC, orally or in writing, in another forum. May I provide comments in response to this notice as well?

Yes, MARAD encourages any member of the public to submit relevant comments for the docket, including input that has previously been communicated to MARAD. Doing so will ensure that your comments are considered in the development of future policies and MARAD response to your concerns.

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

Confidential business information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as "PROPIN" to indicate it contains proprietary information. MARAD will treat

such marked submissions as confidential under the FOIA, and they will not be placed in the public docket. Submissions containing PROPIN should be sent to the email address provided in the **FOR FURTHER INFORMATION CONTACT** section. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. Any comments MARAD receives that are not specifically designated as PROPIN will be placed in the public docket for this notice.

Will the agency consider late comments?

MARAD will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket Management Unit are indicated above in the same location. You may also see the comments on the internet. To read the comments on the internet, go to <http://www.regulations.gov>. Follow the online instructions for accessing the dockets. Please note that even after the comment closing date, MARAD will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

EMBARC Policies, Procedures, and Standards on which MARAD Seeks Comment

In developing the policies, procedures, standards and definitions in EMBARC, MARAD relied on authorities including: 46 U.S.C. 10104; 46 U.S.C. 51318; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e; U.S. Equal Employment Opportunity Commission Guidance; Title IX of the Education Amendments of 1972, 20 U.S.C. 1681; U.S. Department of Education, Office for Civil Rights Guidance; Best Practices Guide on Prevention of Sexual Harassment & Sexual Assault in the U.S. Merchant Marine (SOCP BPG); Ship Operations Cooperative Program (SOCP), June 2017; and USMMA Superintendent Instruction 2018-04 Sexual Assault, Sexual or Gender-Based Harassment, Relationship Violence, Stalking and Retaliation Policy. MARAD seeks comment and suggestions for improvement from interested members of the public on all elements of EMBARC posted on its website at <https://maritime.dot.gov/education/sea-year-training-program-criteria>. The following is a consolidation of both the EMBARC Policies and Procedures and the EMBARC Standards documents.

EVERY MARINER BUILDS A RESPECTFUL CULTURE (EMBARC)

Procedure

I. Purpose

The mission of the United States Merchant Marine Academy (USMMA) is to educate and graduate leaders of exemplary character who are inspired to serve the national security, marine transportation, and economic needs of the United States. As USMMA educates and trains the next generation of leaders, it is committed to ensuring that all members of the Academy community learn and work in safe and supportive environments.

Realizing these goals depend on fostering a community of mutual respect, support, and accountability. Accordingly, the U.S. Department of Transportation (DOT), Maritime Administration (MARAD), and USMMA require all commercial vessel owners and operators that participate in USMMA cadet training to adopt and follow the Every Mariner Builds a Respectful Culture (EMBARC) Sexual Assault and Sexual Harassment (SASH) Prevention

Mandatory Standards (EMBARC Standards)—a set of policies, programs, procedures, and practices to help strengthen a culture of SASH prevention and support appropriate responses to incidents of sexual violence and sexual harassment and other forms of misconduct—and complete enrollment before embarking any cadet.

The policies, procedures, and culture of DOT, MARAD, and USMMA must support effective implementation of the standards outlined in EMBARC. Therefore, DOT, MARAD, and USMMA are revising policies and procedures for Sea Year to enable midshipmen to safely obtain the sea time needed to qualify them to sit for their licensing examinations. Specific policies and procedures already under development are described in more detail below.

DOT, MARAD, and USMMA are committed to ongoing evaluation and improvement of the EMBARC standards to incorporate emerging best practices and will engage closely and regularly with USMMA cadets and other stakeholders to assess implementation and discuss options to further strengthen the EMBARC program. Similarly, DOT, MARAD, and USMMA will continue to evaluate and strengthen USMMA's policies and procedures regarding implementation of Sea Year, including closely and regularly engaging with USMMA cadets and other stakeholders regarding the design and implementation of these policies and procedures.

II. Core Tenets

The following Core Tenets frame all aspects of the implementation of Sea Year at USMMA:

- Build and maintain a shipboard culture of inclusion and respect.
- Establish *zero tolerance* policies for SASH, harassment, and hostile work environment, *zero tolerance* for retaliation against anyone who reports assault or harassment, and proportionate responses to policy infractions.
- Eliminate the barriers that survivors, witnesses, and bystanders face in reporting SASH incidents.
- Support survivors, witnesses, and bystanders who report SASH incidents.

- Promptly address any report of behavior that is inconsistent with EMBARC Standards, using every available resource.
- Review all company and vessel policies and procedures to ensure such policies fully support a work environment in which assault, harassment, and retaliation against those who report assault or harassment—are not tolerated.
- Implement SASH best practices and commit to adopting updates when such practices are promulgated by MARAD. (See *Best Practices Guide on Prevention of Sexual Harassment & Sexual Assault in the U.S. Merchant Marine (SOCP BPG)*; Ship Operations Cooperative Program (SOCP), June 2017.)
- Incorporate SASH prevention, response, and reporting procedures into the Company and Vessel Safety Management Systems.

III. Actions by DOT, MARAD, and USMMA

To help support a safe and supportive learning environment for every cadet during Sea Year and on the USMMA campus, DOT, MARAD, and USMMA will continue to review and revise policies and procedures to strengthen safety; support a culture of SASH prevention and appropriate response to any type of SASH-involved behavior, bullying, or hostile work environment; and support an inclusive culture—including by seeking guidance from outside experts. As first steps, DOT, MARAD, and USMMA will do the following:

- Develop a Superintendent Instruction on Sea Year policy that includes the following:
 - A Sea Year Assignment Policy detailing how Sea Year assignments are made.

The revised policy will formalize the practice of assigning two or more cadets to each ship participating in Sea Year. The policy will also formalize the process for removing cadets from ships after reporting a SASH incident or for any other reason (such as illness, family emergency, etc.), including making clear that USMMA will work with students who leave ships to ensure that they are able to obtain required sea time with minimal disruption to academic progress.

- Procedures for Handling Restricted (confidential) and Unrestricted (not confidential) reports of SASH, gender-based harassment, relationship violence, and stalking at sea, including:
 - explicit definitions of these behaviors;
 - description of the roles of the parties including shipboard training personnel and Sexual Assault Prevention and Response staff (SAPR), such as victim advocates; and
 - support resources for survivors, witnesses, and bystanders.
- A new Amnesty Policy for survivors, witnesses, and bystanders issued earlier this month.¹
- Procedures for the use of satellite phones and satellite texting devices at sea. These devices enhance cadet safety and well-being by allowing immediate contact with authorized representatives of the SAPR Office and other Academy personnel as well as a cadet's family, friends, and support networks.
- Procedures for the training and credentialing of victim advocates who can provide crisis intervention, referrals, and ongoing non-clinical support to survivors of sexual assault, sexual or gender-based harassment, relationship violence, or stalking.
- A Midshipmen Sea Year Mentorship Program to ensure that first time sailors (sophomores or Midshipmen Third Class) will be connected in advance of their first Sea Year assignment to a senior Midshipman mentor. The senior Midshipman mentor will be available to provide insight into all aspects of Sea Year sailing and to answer questions as needed. Mentors will immediately refer any SASH concerns to the SAPR office.

¹ The USMMA revised the Superintendent's Instruction that includes an amnesty provision on December 22, 2022.

- Update the USMMA Sea Year Guide to ensure that it incorporates all revised SASH reporting policies and procedures outlined in the Superintendent Instruction, as well as the EMBARC program requirements. The Sea Year Guide will be focused on supporting USMMA cadets.
- Provide Midshipmen with a pocket guide detailing how to make restricted and unrestricted reports of SASH.
- Strengthen the SAPR Office, including creating and staffing a new Director position for the Office and adding staff positions to expand response capabilities and better support training and prevention efforts across the USMMA community.
- Continue to Coordinate with the U.S. Coast Guard, which is the regulator of the maritime industry and provides law enforcement at sea, to champion broader changes across the industry, including by supporting efforts to strengthen regulatory requirements regarding the reporting of sexual harassment and predatory behavior, where authorized by law.

To ensure effective support and oversight of USMMA efforts, DOT and MARAD will:

- Develop an EMBARC Compliance Review Process: As soon as practicable, MARAD will stand up a new office to review vessel compliance with EMBARC and USMMA policy and procedures. Once staffed, this office will carry out the inspection responsibilities USMMA shipboard training personnel previously performed. Until this new office is organized and staffed, MARAD will assign personnel from its Office of Strategic Sealift to conduct vessel compliance reviews.
- Establish Task Force on USMMA Governance and Culture: DOT will create a Task Force to assess and, as needed, recommend changes to transform USMMA's external and internal governance and Academy culture.

Sexual Assault and Harassment Prevention and Response Standards

IV. Compliance with EMBARC Standards for Sea Year Eligibility

- Each Vessel Operator agrees to comply with the EMBARC Standards, which replace the SCCT Sea Year Eligibility Requirements (dated March 16, 2020), by confirming completion of the immediate actions (set forth in Section III, below) on the EMBARC Accession checklist and submitting the checklist to MARAD. Vessel operators shall submit copies of their SASH policies together with the accession checklist and statement of compliance document.
- Each Vessel Operator agrees to conduct self-assessments of its compliance with the EMBARC Standards annually thereafter and to submit confirmation of such self-assessments and any resultant changes from the annual self-assessments to MARAD. Vessel Operators shall submit copies of their SASH policies together with assessment results.
- Each Vessel Operator agrees to permit MARAD—including third parties engaged by MARAD—to conduct recurring assessments of its compliance with the EMBARC Standards.

V. Immediate Actions by each Vessel Operator

Before accepting cadets on board, each operator shall take the following actions:

- Safety Management System.
 - Affirm that SASH reporting policies and procedures that ensure compliance with the Standards of the EMBARC program will be operational upon enrollment and will be documented within the Safety Management System (SMS) within 90 days of enrollment.
- Designated SASH Contact.
 - Designate a person ashore who will be the primary contact for all SASH issues (SASH Contact). The SASH Contact must have completed the free 40-hour Victim Assistance Training Online provided by the Office for Victims of Crime

Training & Technical Assistance Center, and received the Certificate of Completion, or have completed an equivalent training program.

- Meetings Between the SASH Contact and Cadet.
 - Confirm that cadets will have (1) a virtual or in-person meeting with the SASH Contact before joining a ship; or (2) if there is inadequate time between a cadet's assignment to a vessel and the cadet's embarkation, the SASH Contact shall have contact with the cadet within 48 hours of the cadet's embarkation.
- Communication Measures.
 - Implement measures to—
 - Confirm that SASH Contacts and cadets can communicate as needed once a cadet is on board, including adopting measures to require that the SASH Contact initiate contact with each assigned cadet within the first 7 days of vessel onboarding;
 - Confirm that the SASH Contact shall respond to cadet outreach no later than the next business day;
 - Ensure that whenever a cadet is aboard a vessel for more than 30 days, the SASH Contact shall initiate contact, via email, with the cadet at least every 14 days;
 - Require the SASH Contact to encourage and honor requests from cadets for increased frequency of check-ins; and
 - Ensure the SASH Contact makes a record of any possible violations and ensures prompt and thorough investigation and corrective action, where appropriate, and/or referral to proper authorities.
- Safety practices.
 - Reinforce Vessel Operator safety practices (including SASH prevention, bystander intervention, reporting procedures, and alcohol prohibitions) frequently

with every cadet and crew member through onboard or virtual meetings in accordance with company procedures to strengthen a culture of prevention and build industry-wide understanding and accountability.

- Crew-Cadet Interaction.
 - Adopt policies that prohibit cadets from entering the stateroom of any other crew member; prohibit ship's crew members from entering cadets' private staterooms for any reason other than official maintenance or housekeeping duties during appropriate working hours and with adequate notice; and provide functional door locks for all cadet staterooms. Vessel Operator SASH policies shall include a list of all master key holders with access to cadet staterooms identified by position. Vessel Operator policies shall also establish and maintain open-door office or workspace interaction between cadets and other ship's employees, except when impractical due to vessel compartment configuration or safety procedures.
- Vessel Operator training requirements.
 - Safety Management Systems shall establish quarterly training requirements on SASH prevention, bystander intervention, reporting, and response procedures for all shipboard personnel (regardless of whether cadets are onboard). Cadets shall participate in, but shall not have any role in managing, this training.
 - All officers and crew shall be required to complete the *Maritime Sexual Assault and Sexual Harassment Prevention Training* before a cadet is embarked and to repeat the training annually. The interactive Computer Based Training (CBT) is available at no charge from SOCP.
 - Incorporate SASH discussions in periodic Vessel Safety Meetings using materials similar to those in the Facilitator's Guide and Student Workbook in the SOCP SASH Tool Kit. The SOCP SASH Tool Kit is available at no charge from SOCP.

- Provide copies of vessel operator's SASH prevention policies and reporting procedures to each cadet upon boarding the vessel.
- Display company policies prohibiting SASH, retaliation, drug and alcohol usage, and cadet presence in crew member staterooms/crew member presence in cadet staterooms on board.
- Display posters and guides that support a respectful and inclusive workplace culture. Display SASH prevention, reporting, and response posters prominently in common areas of the vessel. Vessel Operators shall also display such posters in shoreside facilities to which cadets have access.
- Distribute the quick reference guide brochures in the SOCP SASH Tool Kit or other comparable materials to all crew, officers, cadets, and all shore-based personnel who interact with, or have responsibilities related to, officers, crew and cadets. Tips for prevention of, and response to, SASH behaviors shall be provided as appropriate for each intended audience.
- Vessel operators agree to reinforce training, by specifically:
 - Requiring Vessel Masters to introduce cadets to ship's company employees as soon as practicable after boarding to foster an open, welcoming environment for Sea Year students.
 - Requiring Vessel Masters to ensure that cadets are familiarized with the ship during onboarding in accordance with the Safety Management System.
 - Reporting procedures provided to officers, crew, cadets, and posted on the vessel shall include: (1) Contact information for the Vessel Operator's SASH Contact(s) and (2) Point of contact information for notifications to the Coast Guard.

Notifications can be made to the Coast Guard National Command Center at (202) 372-2100, or through the CG Tips, a web-based and mobile alternative to submit either attributed or anonymous reports about crimes witnessed or experienced aboard a vessel directly to a Coast Guard criminal investigator. The CG Tips App can be downloaded from a mobile provider's marketplace. For more information about CGIS, or to submit a tip via the web, visit: <https://www.uscg.mil/Units/Coast-Guard-Investigative-Service/>.

- Reporting.
 - When cadets are embarked, Vessel Operators shall immediately (within 24 hours after learning of an allegation) notify USMMA of an allegation of SASH-involved behavior, regardless of whether the behavior involves a cadet. If the incident involves a cadet, operators shall provide a complete report of investigation to USMMA when concluded. Vessel Operator policies shall require that: (1) thorough investigation of alleged violations of the SASH policy meet best practices for investigations of sexual assaults and sexual harassments; and, (2) interviews be conducted using trauma-informed interview methods.
 - The Vessel Operator's company policies shall require that all shipboard complaints of a sexual offense prohibited under current law must be immediately reported to the Coast 1 (202) 372-2100, or as an attributed report through CG Tips—a web-based and mobile alternative to submit reports about crimes witnessed or experienced aboard a vessel directly to a Coast Guard criminal investigator. The CG Tips App can be downloaded from a mobile provider's marketplace. For more information about CGIS, or to submit a tip via the web, visit: <https://www.uscg.mil/Units/Coast-Guard-Investigative-Service/>.
 - Vessel Operator company leadership should inform the Coast Guard of adverse or disciplinary actions that result in termination or a probationary status of any crewmember for harassment or SASH. Reports of mariner misconduct should be

made to nearest Coast Guard Officer In Charge, Marine Inspection which can be found at the following website: <https://www.uscg.mil/contact/>.

- Best Practices.

Each Vessel Operator shall review company policies within the Safety Management System to determine if they are at least as comprehensive as those listed in the current version of the SOCP Best Practices Guide and revise as necessary, including but not limited to the following policies:

- Employee Best Practices:

- Best Practice #1: Reporting of Sexual Harassment & Sexual Assault
- Best Practice #2: Basic Do's and Don'ts
- Best Practice #3: Safety on Shore Leave
- Best Practice #4: Response to Sexual Harassment & Sexual Assault
- Drugs & Alcohol
- Company Investigation Process
- Victim Advocacy
- "Did You Know?"

- Vessel Operator Company Best Practices:

- Best Practice #1: Defining Sexual Harassment & Sexual Assault
- Best Practice #2: Nurturing a Culture Free of Sexual Harassment & Sexual Assault
- Best Practice #3: Development of Prevention Policies
- Best Practice #4: Effective Training on Sexual Harassment & Sexual Assault Prevention and Response
- Best Practice #5: Establishing Reporting Options
- Best Practice #6: Response to Sexual Harassment & Sexual Assault

Vessel operators shall comply with the reporting procedures listed herein instead of any obsolete reporting procedures in the SOCP Best Practices Guide.

- Compliance Review.
 - Vessel Operators shall meet with DOT, MARAD, USMMA and other invited government and industry participants quarterly, or as called by DOT/MARAD/USMMA, to assess compliance with SASH policies and implement any necessary adjustments and/or corrections.

VI. Intermediate Actions to be taken by Vessel Operators, to be completed within the times noted below after adoption of these EMBARC Standards.

- Within one year, implement vessel master key control systems, manual or electronic.
- Within one year, develop and implement recommended SASH Contact training and annual refresher training for designated SASH contacts to include survivor advocacy and instruction in training and education principles. Each Vessel Operator shall designate and train an appropriate number of designated SASH Contacts to ensure that an adequate number (a minimum of one primary and one alternate) are always available.
- Within one year, work with other Vessel Operators, labor, academies, SOCP and/or other industry organizations, SASH subject matter experts, MARAD and other stakeholders to review and enhance SASH policies used by vessel operators. MARAD will initiate revisions of the SOCP SASH Best Practices Guide. Such revisions will include, among other things updates to best practices and templates to support incorporation of SASH prevention, reporting, and response as well as internal audit and external audit procedures into Company and Vessel Safety Management Systems.
- Within one year, work with other Vessel Operators, labor, academies, industry organizations, SASH subject matter experts, MARAD and other stakeholders to develop and implement enhanced policies and training pertaining to bystander reporting requirements and bystander duty to intervene in SASH incidents.

- Within eighteen months, collaborate with other Vessel Operators, mariner unions, Academies, union training schools, SASH subject matter experts, MARAD, USCG and other stakeholders to develop and implement expanded mandatory annual SASH training for all crew members including, but not limited to:
 - SASH (including bystander intervention);
 - Micro aggression consciousness;
 - Cadet relationships;
 - Creating and maintaining a respectful work environment; and
 - Training regimens and methods that enable effective crew awareness of SASH prevention principles.
- As soon as practicable, but not later than two years, work with other Vessel Operators, labor, Academies, industry organizations, SASH subject matter experts, MARAD, USCG, and other stakeholders, to develop, establish and participate in, to the extent permissible under law, the maintenance and operation of a SASH perpetrator information exchange.
 - The exchange shall contain the names of all merchant mariners who are the subjects of substantiated reports of discriminatory, SASH-related, violent, or other violative behavior, or who were terminated in related proceedings; the incident dates; the bases of substantiation; and the disposition of each circumstance shall be recorded and accessible to all operators of U.S.-flag vessels.

VII. Long-Term Actions to be taken by Vessel Operators. These will be developed in coordination with the MARAD and other Government and maritime industry participants and may include:

- Consideration of a range of possible measures to address accountability for the SASH climate onboard Vessel Operator ships that could include:
 - training on records maintenance;

- identified perpetrator tracking and record keeping, to the extent permissible by law;
 - recorded video monitoring of, at a minimum, passageways immediately adjacent to cadet staterooms;
 - enhanced Diversity, Equity, and Inclusion (DEI) initiatives and practices in the mariner workforce; and
 - training and credentialing of officers at the Provisional level by the National Advocate Credentialing Program.
- Collaboration with the U.S. Coast Guard, other Vessel Operators, mariner unions, and industry organizations to develop the requirements of a merchant mariner credential that satisfies training requirements for SASH Contacts and designated onboard officers or other persons ashore to attain and maintain respective Basic and Provisional NACP training levels.

VIII. Definitions.

The following definitions and examples are derived from the 2017 Best Practices Guide on Prevention of Sexual Assault and Sexual Harassment in the U.S. Merchant Marine (SOCP BPG), published by the Ship Operations Cooperative Program with support from the U.S. Department of Transportation Maritime Administration under Agreement No. DTMA 91H1600008 and the U.S. Merchant Marine Academy's 2018 *Sexual Assault, Sexual or Gender-Based Harassment, Relationship Violence, Stalking, and Retaliation Policy*.

- Sexual Assault is a crime of violence defined as intentional touching of a sexual nature against the will (by use of force, physical threat, coercive conduct, or abuse of authority), or without the consent of another person, or where that person is incapacitated (e.g., "passed out," sleeping, or impaired due to the use of alcohol or drugs, including prescription medications) or otherwise incapable of giving consent. The other person can

be male or female and the perpetrator of the sexual assault can be of the same or opposite sex. Sexual assault includes, but is not limited to, the following:

- Sexual intercourse, including anal, oral, or vaginal penetration, however slight, with a body part (e.g., penis, finger, hand or tongue) or an object;
 - Kissing, touching, groping, fondling, or other intentional contact with the breasts, buttocks, groin, or genitals (over or under an individual's clothing) for purposes of sexual gratification or when such private body parts are otherwise touched in a sexual manner;
 - Sexual contact with someone who is unable to say "no" and/or change their mind due to the presence of coercion or intimidation; or
 - Sexual contact with someone who is under the age of consent in the jurisdiction in which the sexual assault occurs.
- Sexual Harassment and Gender-Based Harassment: Sexual harassment is any unwelcome sexual advance, request for sexual favors, or other unwelcome verbal, non-verbal, graphic, or physical conduct of a sexual nature, including, but not limited to the following:
 - Submission to or rejection of such conduct is either an explicit or implicit term or condition of an individual's employment or advancement in employment, evaluation of academic work or advancement in an academic program, or basis for participation in any aspect of an Academy program or activity, including shipboard training (*quid pro quo*);
 - Submission to or rejection of such conduct by an individual is used as a basis for decisions affecting the individual (*quid pro quo*); or
 - Such conduct has the purpose or effect of unreasonably interfering with an individual's learning, working, or living environment; in other words, it is sufficiently severe, pervasive, or persistent as to create an intimidating, hostile, or

offensive learning, working, or living environment under both an objective—a reasonable person’s view—and subjective—the Complainant’s view—standard (hostile environment).

- Examples of Sexual Harassment include, but are not limited to, the following behaviors:
 - Verbal conduct such as epithets, derogatory or off-color jokes or comments of a sexual nature, slurs or unwanted sexual advances, invitations, or comments, discussing sexual activities, commenting on physical attributes, using demeaning names, or using crude language;
 - Visual conduct such as derogatory or sexually oriented posters, photography, cartoons, drawings, or gestures, or exposing oneself;
 - Physical conduct such as unwanted or unnecessary touching, the blocking of voluntary movement, or interfering with a person’s work due to the refusal of sexual advances or a person’s sexual orientation;
 - Threats and demands to submit to sexual requests as a condition of continued employment or to avoid discipline; and
 - Rewards and offers of employment benefits in return for sexual favors.
- Gender-Based Harassment includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature. Examples of sexual or gender-based harassment include, but are not limited to, the following:
 - Unwanted flirtation, advances or propositions of a sexual nature;

- Verbal conduct, including lewd or sexually suggestive comments, jokes, or innuendos, or unwelcome comments about an individual's sexual orientation or gender identity;
- Written conduct, including letters, notes, or electronic communications containing comments, words, jokes, or images that are lewd or sexually suggestive, or relate in an unwelcome manner to an individual's sexual orientation or gender identity.
- Relationship Violence refers to controlling, abusive behavior, including any act of violence or threatened act of violence, against a person who is, or has been involved, in a sexual, dating, domestic, cohabiting or married relationship with that person.

Relationship violence can take place in heterosexual or same-sex relationships, and sometimes also involves violence against the children in the family. Relationship violence can take a number of forms including physical, verbal, emotional, economic, and sexual abuse, or any combination thereof.

- Domestic violence: The term “domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the applicable jurisdiction, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the applicable jurisdiction.
- Dating violence: The term “dating violence” means violence committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the

relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.

- Stalking is a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress. Such conduct includes, but is not limited to, unwelcome acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property. It includes cyber-stalking, in which electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used. Stalking can occur in a dating relationship, friendship, or past relationship, or can be perpetrated by a stranger.
- Harassment is the act of systematic and/or continued unwanted and annoying actions of one party or a group, including threats and demands. The purpose may vary, including racial prejudice, personal malice, and attempt to force someone to quit a job or grant sexual favors, or merely gain sadistic pleasure from making someone fearful or anxious.
- Bullying is the use of force, threat, or coercion to abuse, intimidate or aggressively dominate others. The behavior is often repeated and habitual. One essential prerequisite is the perception, by the bully or by others, of an imbalance of social or physical power, which distinguishes bullying from conflict.
- Consent means clear words or overt acts by a competent person indicating freely given agreement to engage in mutually agreed upon sexual conduct. An expression of refusal through words or conduct means there is no consent. Consent may not be inferred from silence, passivity, or lack of resistance alone. Consent to one form of sexual activity does not imply consent to other forms of sexual activity, and the existence of a current or previous dating or sexual relationship is not sufficient to constitute consent to additional sexual activity. Consent may be initially given but can be withdrawn at any time.

- Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness, being asleep, being involuntarily restrained, or being coerced or intimidated. Depending on the degree of intoxication, an individual who is under the influence of alcohol, drugs, or other intoxicants, may be incapacitated and, therefore, unable to consent.
- Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another person for their own advantage or benefit or for the advantage or benefit of anyone else. Examples of sexual exploitation include but are not limited to the following:
 - Voyeurism (such as watching or taking pictures, videos, or audio recordings of another person engaging in a sexual act, in a state of undress, or in a place and time where such person has the reasonable expectation of privacy, such as a changing room, toilet, bathroom, or shower, each without the affirmative consent of all parties);
 - Disseminating, streaming, or posting pictures or video of another in a state of undress or of a sexual nature without the person's affirmative consent;
 - Exposing one's genitals to another person without affirmative consent; or
 - Knowingly exposing another individual to a sexually transmitted infection or virus without the other individual's knowledge.
- Retaliation (sometimes referred to as reprisal) means taking or threatening to take any adverse action taken against an individual for making a good faith report of conduct prohibited under the organization's Policy, or for participating in any investigation or proceeding resulting from such a report. Retaliation includes threatening, intimidating, harassing, or any other conduct that would discourage a reasonable person from making a

report, or from participating in proceedings related to such a report. Examples of retaliation include, but are not limited, to the following:

- Disadvantaging or restricting a person in their status as an employee or cadet, or in their ability to gain benefits or opportunities available at the organization or the USMMA;
- Precluding a person from filing a report of prohibited conduct;
- Pressuring someone to drop or not support a complaint, or to provide incomplete, false, or misleading information; or
- Adversely altering the educational or work environment of someone who has r participated in the complaint process.

By order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

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